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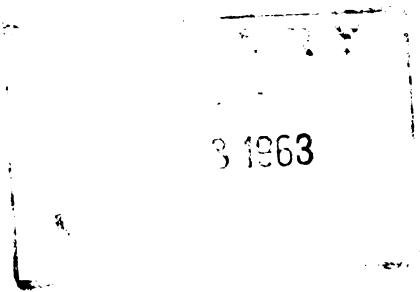
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*Supersedes Ag Handbook No. 124*

# **Compilation of Agricultural Marketing Agreement Act of 1937**

**Reenacting, Amending, and  
Supplementing the Agricultural  
Adjustment Act, as Amended**

**As of January 1, 1963**



**Agriculture Handbook No. 243**

**Agricultural Marketing Service**

**UNITED STATES DEPARTMENT OF AGRICULTURE**

## PREFATORY NOTE

This compilation is intended to indicate the present status of legislation by Congress relating to marketing agreements and orders regulating the handling of agricultural commodities in interstate and foreign commerce. The Agricultural Marketing Agreement Act of 1937, approved June 3, 1937 (Public, No. 137—75th Congress—Chap. 296, 1st Session, 7 U.S.C. 674, 50 Stat. 249), reenacted and amended certain provisions of the Agricultural Adjustment Act, as amended, relating to marketing agreements and orders. The compilation of the legislation is based on Title 7 of the United States Code, 1958 ed. with amendments through 1962.

The applicable sections and headings of Title 7 of the United States Code are furnished over the paragraphs of the text. Statutory citations in parentheses at end of paragraphs of the text refer to pertinent sections of the acts and amendments thereto arranged chronologically in legislative sequence.

Explanatory notes relative to legislative history and amendments of the Agricultural Marketing Agreement Act of 1937 as appear in Title 7 of the United States Code are also included herein.

Cross references are omitted from this compilation of the Act. These will be found under the respective headings and sections of Title 7 of the United States Code.

Washington, D.C.

Issued April 1963.

This publication supersedes Agriculture Handbook No. 124, issued April 1958.

# CONTENTS

## Agricultural Marketing Agreement Act of 1937, as amended, 7 U.S.C., 1952 ed., 601 *et seq.*

U.S. Code Sections		Page
601.	Declaration of conditions.....	1
602.	Declaration of policy; establishment of base periods for prices; marketing standards; orderly supply flow; circumstances for continued regulation.....	2
608a.		
(5)	Forfeitures.....	3
(6)	Jurisdiction of district courts.....	3
(7)	Duties of district attorneys; investigation of violations by Secre- tary; hearings.....	3
(8)	Cumulative remedies.....	4
(9)	"Person" defined.....	4
608b.	Marketing agreements; exemption from antitrust laws.....	5
608c.	Orders regulating handling of commodity.....	5
(1)	Issuance by Secretary.....	5
(2)	Commodities to which applicable.....	6
(3)	Notice and hearing.....	7
(4)	Finding and issuance of order.....	7
(5)	Milk and its products; terms and conditions of orders.....	7
(6)	Other commodities; terms and conditions of orders.....	9
(7)	Terms common to all orders.....	11
(8)	Orders with marketing agreement.....	11
(9)	Orders with or without marketing agreement.....	12
(10)	Manner of regulation and applicability.....	13
(11)	Regional application.....	13
(12)	Approval of cooperative association as approval of producers.....	14
(13)	Retailer and producer exemption.....	14
(14)	Violation of order; penalty.....	14
(15)	Petition by handler for modification of order or exemption; court review of ruling of Secretary.....	14
(16)	Termination of orders and marketing agreements.....	15
(17)	Provisions applicable to amendments.....	16
(18)	Milk prices.....	16
(19)	Producer or processor referendum for approving order.....	16
608d.	Books and records; disclosure of information.....	19
608e.	Repealed.....	20
608e-1	Import prohibitions on tomatoes, avocados, limes, etc., rules and regulations.....	20
610.	Administration.....	21
(a)	Appointment of officers and employees; impounding appropria- tions.....	21
(b)	State and local committees or associations of producers; handlers' share of expenses of authority or agency.....	21
(c)	Regulations; penalty for violation.....	23
(f)	Geographical application.....	23
(g)	Officers; dealing or speculating in agricultural products; penalties.....	23
(h)	Adoption of Federal Trade Commission Act; hearings; report of violations to Attorney General.....	23
(i)	Cooperation with State authorities; imparting information.....	24
(j)	Definitions.....	24
612.	Appropriation; use of revenues; administrative expenses.....	26
614.	Separability of provisions.....	27
624.	Limitation on imports; authority of President.....	27
671.	Arbitration of disputes concerning milk.....	30
(a)	Application.....	30
(b)	Conduct of meetings.....	30
(c)	Approval of award.....	30
(d)	Exemption from antitrust laws.....	30
672(a)	Agreements; licenses, regulations, programs, etc., unaffected.....	31
673.	Taxes under Agricultural Adjustment Act; laws unaffected.....	31
674.	Short title.....	32

**COMPILATION OF AGRICULTURAL MARKETING AGREEMENT ACT OF 1937 REENACTING, AMENDING, AND SUPPLEMENTING THE AGRICULTURAL ADJUSTMENT ACT, AS AMENDED, INCLUDING AMENDMENTS OF THE EIGHTY-SEVENTH CONGRESS, SECOND SESSION.**

**DECLARATION OF CONDITIONS AND POLICY**

**§ 601. Declaration of conditions.**

It is declared that the disruption of the orderly exchange of commodities in interstate commerce impairs the purchasing power of farmers and destroys the value of agricultural assets which support the national credit structure and that these conditions affect transactions in agricultural commodities with a national public interest, and burden and obstruct the normal channels of interstate commerce. (May 12, 1933, ch. 25, title I, § 1, 48 Stat. 31; June 3, 1937, ch. 296, §§ 1, 2(a), 50 Stat. 246.)

**SHORT TITLE**

Section 8(a) of act June 16, 1933, ch. 90, 48 Stat. 199, provided in part that title I of act May 12, 1933, ch. 25, 48 Stat. 31-41, which constitutes sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623 and 624 of this title may for all purposes be referred to as the "Agricultural Adjustment Act."

**VALIDITY OF CERTAIN SECTIONS AFFIRMED**

Act June 3, 1937, ch. 296, §§ 1, 2, 50 Stat. 246, provided as follows:

"The following provisions of the Agricultural Adjustment Act, as amended, not having been intended for the control of the production of agricultural commodities, and having been intended to be effective irrespective of the validity of any other provision of that Act are expressly affirmed and validated, and are reenacted without change except as provided in section 2:

- "(a) Section 1 (relating to the declaration of emergency [this section]);
  - "(b) Section 2 (relating to declaration of policy [section 602 of this title]);
  - "(c) Section 8a (5), (6), (7), (8), and (9) (relating to violations and enforcement [section 608a (5), (6), (7), (8), and (9) of this title]);
  - "(d) Section 8b (relating to marketing agreements [section 608b of this title]);
  - "(e) Section 8c (relating to orders [section 608c of this title]);
  - "(f) Section 8d (relating to books and records [section 608d of this title]);
  - "(g) Section 8e (relating to determination of base period [former section 608e of this title]);
  - "(h) Section 10 (a), (b) (2), (c), (f), (g), (h), and (i) (miscellaneous provisions [section 610 (a), (b) (2), (c), (f), (g), (h), and (i) of this title]);
  - "(i) Section 12 (a) and (c) (relating to appropriation and expenses [section 612 (a) and (c) of this title]);
  - "(j) Section 14 (relating to separability [section 614 of this title]);
  - "(k) Section 22 (relating to imports [section 624 of this title]).
- "Sec. 2. The following provisions, reenacted in section 1 of this act, are amended as follows: \* \* \* [sections 601, 602(1), 608a(6), 608c (5) (B) (d), (6) (B) (18), (19), 610 (c), (f), 612(a)]."

Section 2 of act June 3, 1937, also added subdivision (j) to section 610. Section 2 of act June 3, 1937, was amended by act Aug. 5, 1937, ch. 567, 50 Stat. 563, which amending act provided for amendments to subdivs. (2) and (6) of section 608c of this title.

## TERMINATION OF APPLICABILITY TO SUGAR

Provisions of this section ceased to apply to sugar on Sept. 1, 1937. See section 1180 of this title.

**§ 602. Declaration of policy; establishment of price basing period; marketing standards; orderly supply flow; circumstances for continued regulations.**

It is declared to be the policy of Congress—

(1) Through the exercise of the powers conferred upon the Secretary of Agriculture under sections 601–604, 607, 608, 608a, 608b, 608c, 608d, 608e–1, 608f–612, 613, 614–619, 620, 623 and 624 of this title, to establish and maintain such orderly marketing conditions for agricultural commodities in interstate commerce as will establish, as the prices to farmers, parity prices as defined by section 1301(a)(1) of this title.

(2) To protect the interest of the consumer by (a) approaching the level of prices which it is declared to be the policy of Congress to establish in subsection (1) of this section by gradual correction of the current level at as rapid a rate as the Secretary of Agriculture deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and (b) authorizing no action under sections 601–604, 607, 608, 608a, 608b, 608c, 608d, 608e–1, 608f–612, 613, 614–619, 620, 623 and 624 of this title which has for its purpose the maintenance of prices to farmers above the level which it is declared to be the policy of Congress to establish in subsection (1) of this section.

(3) Through the exercise of the powers conferred upon the Secretary of Agriculture under sections 601–604, 607, 608, 608a, 608b, 608c, 608d, 608e–1, 608f–612, 613, 614–619, 620, 623 and 624 of this title, to establish and maintain such minimum standards of quality and maturity and such grading and inspection requirements for agricultural commodities enumerated in section 608c(2) of this title, other than milk and its products, in interstate commerce as will effectuate such orderly marketing of such agricultural commodities as will be in the public interest.

(4) Through the exercise of the powers conferred upon the Secretary of Agriculture under sections 601–604, 607, 608, 608a, 608b, 608c, 608d, 608e–1, 608f–612, 613, 614–619, 620, 623 and 624 of this title, to establish and maintain such orderly marketing conditions for any agricultural commodity enumerated in section 608c(2) of this title as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout its normal marketing season to avoid unreasonable fluctuations in supplies and prices.

(5) Through the exercise of the power conferred upon the Secretary of Agriculture under sections 601–604, 607–608a, 608b, 608c, 608d, 608e–1 to 612, 613, 614–619, 620, 623, and 624 of this title, to continue for the remainder of any marketing season or marketing year, such regulation pursuant to any order as will tend to avoid a disruption of the orderly marketing of any commodity and be in the public interest, if the regulation of such commodity under such order has

7 U.S.C. §§ 602, 608a

been initiated during such marketing season or marketing year on the basis of its need to effectuate the policy of said sections. (May 12, 1933, ch. 25, title I, § 2, 48 Stat. 32; Aug. 24, 1935, ch. 641, §§ 1, 62, 49 Stat. 750, 782; June 3, 1937, ch. 296 §§ 1, 2(b), 50 Stat. 246, 247; Aug. 1, 1947, ch. 425, § 1, 61 Stat. 707; July 3, 1948, ch. 827, title III, § 302(a), 62 Stat. 1257; Aug. 28, 1954, ch. 1041, title IV, § 401, 68 Stat. 906; as amended Aug. 8, 1961, Pub. L. 87-128, title I, § 141(1), 75 Stat. 303.)

AMENDMENTS

- 1961—Subsec. (5). Pub. L. 87-128 added subsec. (5).
- 1954—Subsec. (4) added by act Aug. 28, 1954.
- 1948—Subsec. (1) amended by act July 3, 1948, to make the definition of "parity" conform to definition stated in section 1301(a)(1) of this title.
- 1947—Subsec. (3) added by act Aug. 1, 1947.
- 1935—Subsec. (1), first sentence, amended by section 1; and the second and third sentences, by section 62 of act Aug. 24, 1935.
- Subsec. (2) amended by act Aug. 24, 1935.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective as of Jan. 1, 1950. See note set out under section 1301 of this title.

VALIDITY OF SECTION AFFIRMED

Section 1 of act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section except for the amendment to subsec. (1) by section 2 of said act. See note to section 601 of this title.

§ 608a.

(5) Forfeitures.

Any person exceeding any quota or allotment fixed for him under sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623, and 624 of this title by the Secretary of Agriculture and any other person knowingly participating or aiding in the exceeding of such quota or allotment shall forfeit to the United States a sum equal to the value of such excess at the current market price for such commodity at the time of violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States.

(6) Jurisdiction of district courts.

The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any order, regulation, or agreement, heretofore or hereafter made or issued pursuant to sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623, and 624 of this title, in any proceeding now pending or hereafter brought in said courts.

(7) Duties of United States attorneys; investigation of violations by Secretary; hearings.

Upon the request of the Secretary of Agriculture, it shall be the duty of the several United States attorneys, in their respective dis-

tricts, under the directions of the Attorney General, to institute proceedings to enforce the remedies and to collect the forfeitures provided for in, or pursuant to sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623, and 624 of this title. Whenever the Secretary, or such officer or employee of the Department of Agriculture as he may designate for the purpose, has reason to believe that any handler has violated, or is violating, the provisions of any order or amendment thereto issued pursuant to said sections, the Secretary shall have power to institute an investigation and, after due notice to such handler, to conduct a hearing in order to determine the facts for the purpose of referring the matter to the Attorney General for appropriate action.

### (8) Cumulative remedies.

The remedies provided for in this section shall be in addition to, and not exclusive of, any of the remedies or penalties provided for elsewhere in sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623, and 624 of this title or now or hereafter existing at law or in equity.

### (9) "Person" defined.

The term "person" as used in sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623, and 624 of this title includes an individual, partnership, corporation, association, and any other business unit. (May 12, 1933, ch. 25, title I, § 8a, as added May 9, 1934, 11:23 a.m., ch. 263, § 4, 48 Stat. 672, and amended Aug. 24, 1935, ch. 641, §§ 8-10, 49 Stat. 762; June 3, 1937, ch. 296, §§ 1, 2(c), 50 Stat. 246, 247; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; June 25, 1948, ch. 646, § 1, 62 Stat. 869; as amended Aug. 8, 1961, Pub. L. 87-128, title I, § 141(2), 75 Stat. 304.)

### AMENDMENTS

1961—Subsec. (5). Pub. L. 87-128 deleted "willfully" following "Any person" and substituted provisions for forfeiture of a sum equal to the value of the excess at the current market price for the commodity at the time of violation for provision for forfeiture of a sum equal to three times the current market value of the excess.

1937—Subsec. (6) amended by act June 3, 1937, § 2(c), by striking out "the provisions of this section, or of".

1935—Subsec. (1), amended by act Aug. 24, 1935, by striking out the word "handlers" wherever it appears and inserting in lieu thereof "persons engaged in handling"; by striking out "or in competition with," in paragraph (B); by inserting "directly" before "to burden" in paragraph (B); and by striking out the words "in any way" in paragraph (B).

Subsec. (6) amended by act Aug. 24, 1935, § 9, by inserting "or" after the comma following "regulation" and by striking out "or license".

Subsec. (7) amended by act Aug. 24, 1935, § 10, by addition of the last sentence.

1934—Subsec. (1) added by act May 9, 1934.

Subsecs. (5)-(9) added by act May 9, 1934.

### CHANGE OF NAME

The term "district attorneys of the United States" was changed to "United States attorneys" by act June 25, 1948. See section 501 of Title 28, Judiciary and Judicial Procedure.

7 U.S.C. §§ 608a, 608b, 608c

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of subsections (5), (6), (7), (8), and (9) of this section, except for the amendment to subsection (6) by section 2 of the act. See note to section 601 of this title.

COMMODITY BENEFITS

**§ 608b. Marketing agreements; exemption from antitrust laws.**

In order to effectuate the declared policy of sections 601–604, 607, 608, 608a, 608b, 608c, 608d, 608e–1, 608f–612, 613, 614–619, 620, 623, and 624 of this title, the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof. The making of any such agreement shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful: *Provided*, That no such agreement shall remain in force after the termination of said sections. (May 12, 1933, ch. 25, title I, § 8b, formerly § 8(2), 48 Stat. 34; Apr. 7, 1934, ch. 103, § 7, 48 Stat. 528, renumbered and amended Aug. 24, 1935, ch. 641, § 4, 49 Stat. 753; June 3, 1937, ch. 296, § 1, 50 Stat. 246; June 30, 1947, ch. 166, title II, § 206(d), 61 Stat. 208.)

CODIFICATION

The provisions now appearing in this section except the first sentence, were originally enacted as part of section 8, subsec. 2 of the act of May 12, 1933, and formerly appeared as section 608(2) of this title.

AMENDMENTS

1947—Act June 30, 1947, amended section by repealing provisions providing for loans from the Reconstruction Finance Corporation.

1935—Act Aug. 24, 1935, designated subsection 2 of section 8 of act May 12, 1933, as section 8b and changed the first sentence to read as it now appears in the text.

VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section. See note to section 601 of this title.

**§ 608c. Orders regulating handling of commodity—(1) Issuance by Secretary.**

The Secretary of Agriculture shall, subject to the provisions of this section, issue, and from time to time amend, orders applicable to processors, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof specified in subsection (2) of this section. Such persons are referred to in sections 601–604, 607, 608, 608a, 608b, 608c, 608d, 608e–1, 608f–612, 613, 614–619, 620, 623, and 624 of this title as “handlers.” Such orders shall regulate, in the manner hereinafter in this section provided, only such handling of such agricultural commodity, or product



thereof, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof.

## (2) Commodities to which applicable.

Orders issued pursuant to this section shall be applicable only to (A) the following agricultural commodities and the products thereof (except canned or frozen grapefruit, cherries, apples, or cranberries, the products of naval stores, and the products of honeybees), or to any regional, or market classification of any such commodity or product: Milk, fruits (including filberts, almonds, pecans, and walnuts but not including apples other than apples produced in the States of Washington, Oregon, Idaho, New York, Michigan, Maryland, New Jersey, Indiana, California, Maine, Vermont, New Hampshire, Rhode Island, Massachusetts, and Connecticut, and not including fruits for canning or freezing other than olives, grapefruit, cherries, cranberries, and apples produced in the States named above except Washington, Oregon, and Idaho), tobacco, vegetables (not including vegetables, other than asparagus, for canning or freezing), hops, honeybees, and naval stores as included in the Naval Stores Act and standards established thereunder (including refined or partially refined oleoresin): *Provided*, That no order issued pursuant to this section shall be effective as to any grapefruit for canning or freezing unless the Secretary of Agriculture determines, in addition to other findings and determinations required by sections 601–604, 607, 608, 608a, 608b, 608c, 608d, 608e–1, 608f–612, 613, 614–619, 620, 623, and 624 of this title, that the issuance of such order is approved or favored by the processors who, during a representative period determined by the Secretary, have been engaged in canning or freezing such commodity for market and have canned or frozen for market more than 50 per centum of the total volume of such commodity canned or frozen for market during such representative period; and (B) any agricultural commodity (except honey, cotton, rice, wheat, corn, grain sorghums, oats, barley, rye, sugarcane, sugarbeets, wool, mohair, livestock, soybeans, cottonseed, flaxseed, poultry (but not excepting turkeys), eggs (but not excepting turkey hatching eggs), fruits and vegetables for canning or freezing, and apples), or any regional or market classification thereof, not subject to orders under (A) of this subdivision, but not the products (including canned or frozen commodities or products) thereof. No order issued pursuant to this section shall be effective as to cherries, apples, or cranberries for canning or freezing unless the Secretary of Agriculture determines, in addition to other required findings and determinations, that the issuance of such order is approved or favored by processors who, during a representative period determined by the Secretary, have engaged in canning or freezing such commodity for market and have frozen or canned more than 50 per centum of the total volume of the commodity to be regulated which was canned or frozen within the production area, or marketed within the marketing area, defined in such order, during such representative period. No order issued pursuant to this section shall be applicable to peanuts produced in more than one of the following production areas: the Virginia-

Carolina production area, the Southeast production area, and the Southwest production area. If the Secretary determines that the declared policy of sections 601-604, 607-608a, 608b, 608c, 608d, 608e-1 to 612, 613, 614-619, 620, 623, and 624 of this title will be better achieved thereby (i) the commodities of the same general class and used wholly or in part for the same purposes may be combined and treated as a single commodity and (ii) the portion of an agricultural commodity devoted to or marketed for a particular use or combination of uses, may be treated as a separate agricultural commodity. All agricultural commodities and products covered hereby shall be deemed specified herein for the purposes of subsections (6) and (7) of this section.

### **(3) Notice and hearing.**

Whenever the Secretary of Agriculture has reason to believe that the issuance of an order will tend to effectuate the declared policy of sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623, and 624 of this title with respect to any commodity or product thereof specified in subsection (2) of this section, he shall give due notice of and an opportunity for a hearing upon a proposed order.

### **(4) Finding and issuance of order.**

After such notice and opportunity for hearing, the Secretary of Agriculture shall issue an order if he finds, and sets forth in such order, upon the evidence introduced at such hearing (in addition to such other findings as may be specifically required by this section) that the issuance of such order and all of the terms and conditions thereof will tend to effectuate the declared policy of sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623, and 624 of this title with respect to such commodity.

### **(5) Milk and its products; terms and conditions of orders.**

In the case of milk and its products, orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7) of this section) no others:

(A) Classifying milk in accordance with the form in which or the purpose for which it is used, and fixing, or providing a method for fixing, minimum prices for each such use classification which all handlers shall pay, and the time when payments shall be made, for milk purchased from producers or associations of producers. Such prices shall be uniform as to all handlers, subject only to adjustments for (1) volume, market, and production differentials customarily applied by the handlers subject to such order, (2) the grade or quality of the milk purchased, and (3) the locations at which delivery of such milk, or any use classification thereof, is made to such handlers:

(B) Providing:

(i) for the payment to all producers and associations of producers delivering milk to the same handler of uniform prices for all milk delivered by them: *Provided*, That, except in the case of orders cov-

ering milk products only, such provision is approved or favored by at least three-fourths of the producers who, during a representative period determined by the Secretary of Agriculture, have been engaged in the production for market of milk covered in such order or by producers who, during such representative period, have produced at least three-fourths of the volume of such milk produced for market during such period; the approval required hereunder shall be separate and apart from any other approval or disapproval provided for by this section; or

(ii) for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered;

subject, in either case, only to adjustments for (a) volume, market, and production differentials customarily applied by the handlers subject to such order, (b) the grade or quality of the milk delivered, (c) the locations at which delivery of such milk is made, and (d) a further adjustment, equitably to apportion the total value of the milk purchased by any handler, or by all handlers, among producers and associations of producers, on the basis of their marketings of milk during a representative period of time.

(C) In order to accomplish the purposes set forth in paragraph (A) and (B) of this subsection, providing a method for making adjustments in payments, as among handlers (including producers who are also handlers), to the end that the total sums paid by each handler shall equal the value of the milk purchased by him at the prices fixed in accordance with paragraph (A) of this subsection.

(D) Providing that, in the case of all milk purchased by handlers from any producer who did not regularly sell milk during a period of 30 days next preceding the effective date of such order for consumption in the area covered thereby, payments to such producer, for the period beginning with the first regular delivery by such producer and continuing until the end of two full calendar months following the first day of the next succeeding calendar month, shall be made at the price for the lowest use classification specified in such order, subject to the adjustments specified in paragraph (B) of this subsection.

(E) Providing (i) except as to producers for whom such services are being rendered by a cooperative marketing association, qualified as provided in paragraph (F) of this subsection, for market information to producers and for the verification of weights, sampling, and testing of milk purchased from producers, and for making appropriate deductions therefor from payments to producers, and (ii) for assurance of, and security for, the payment by handlers for milk purchased.

(F) Nothing contained in this subsection is intended or shall be construed to prevent a cooperative marketing association qualified under the provisions of sections 291 and 292 of this title, engaged in making collective sales or marketing of milk or its products for the producers thereof, from blending the net proceeds of all of its sales in all markets in all use classifications, and making distribution thereof to its producers in accordance with the contract between the association and its producers: *Provided*, That it shall not sell milk or its products to any

handler for use or consumption in any market at prices less than the prices fixed pursuant to paragraph (A) of this subsection for such milk.

(G) No marketing agreement or order applicable to milk and its products in any marketing area shall prohibit or in any manner limit, in the case of the products of milk, the marketing in that area of any milk or product thereof produced in any production area in the United States.

**(6) Other commodities; terms and conditions of orders.**

In the case of the agricultural commodities and the products thereof, other than milk and its products, specified in subsection (2) of this section orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7) of this section), no others:

(A) Limiting, or providing methods for the limitation of, the total quantity of any such commodity or product, or of any grade, size, or quality thereof, produced during any specified period or periods, which may be marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, during any specified period or periods by all handlers thereof.

(B) Allotting, or providing methods for allotting, the amount of such commodity or product, or any grade, size, or quality thereof, which each handler may purchase from or handle on behalf of any and all producers thereof, during any specified period or periods, under a uniform rule based upon the amounts sold by such producers in such prior period as the Secretary determines to be representative, or upon the current quantities available for sale by such producers, or both, to the end that the total quantity thereof to be purchased, or handled during any specified period or periods shall be apportioned equitably among producers.

(C) Allotting, or providing methods for allotting, the amount of any such commodity or product, or any grade, size, or quality thereof, which each handler may market in or transport to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, under a uniform rule based upon the amounts which each such handler has available for current shipment, or upon the amounts shipped by each such handler in such prior period as the Secretary determines to be representative, or both, to the end that the total quantity of such commodity or product, or any grade, size, or quality thereof, to be marketed in or transported to any or all markets in the current of foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, during any specified period or periods shall be equitably apportioned among all of the handlers thereof.

(D) Determining, or providing methods for determining, the existence and extent of the surplus of any such commodity or product, or of any grade, size, or quality thereof, and providing for the control

and disposition of such surplus, and for equalizing the burden of such surplus elimination or control among the producers and handlers thereof.

(E) Establishing or providing for the establishment of reserve pools of any such commodity or product, or of any grade, size, or quality thereof, and providing for the equitable distribution of the net return derived from the sale thereof among the persons beneficially interested therein.

(F) Requiring or providing for the requirement of inspection of any such commodity or product produced during specified periods and marketed by handlers.

(G) In the case of hops and their products, in addition to, or in lieu of, the foregoing terms and conditions, orders may contain one or more of the following:

(i) Limiting, or providing methods for the limitation of, the total quantity thereof, or of any grade, type, or variety thereof, produced during any specified period or periods, which all handlers may handle in the current of or so as directly to burden, obstruct, or affect interstate or foreign commerce in hops or any product thereof.

(ii) Apportioning, or providing methods for apportioning, the total quantity of hops of the production of the then current calendar year permitted to be handled equitably among all producers in the production area to which the order applies upon the basis of one or more or a combination of the following: The total quantity of hops available or estimated will become available for market by each producer from his production during such period; the normal production of the acreage of hops operated by each producer during such period upon the basis of the number of acres of hops in production, and the average yield of that acreage during such period as the Secretary determines to be representative, with adjustments determined by the Secretary to be proper for age of plantings or abnormal conditions affecting yield; such normal production or historical record of any acreage for which data as to yield of hops are not available or which had no yield during such period shall be determined by the Secretary on the basis of the yields of other acreage of hops of similar characteristics as to productivity, subject to adjustment as just provided for.

(iii) Allotting, or providing methods for allotting, the quantity of hops which any handler may handle so that the allotment fixed for that handler shall be limited to the quantity of hops apportioned under preceding section (ii) to each respective producer of hops; such allotment shall constitute an allotment fixed for that handler within the meaning of subsection (5) of section 608a of this title.

(H) Providing a method for fixing the size, capacity, weight, dimensions, or pack of the container, or containers, which may be used in the packaging, transportation, sale, shipment, or handling of any fresh or dried fruits, vegetables, or tree nuts: *Provided, however,* That no action taken hereunder shall conflict with the Standard Containers Act of 1916 and the Standard Containers Act of 1928.

(I) Establishing or providing for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of any such

commodity or product, the expense of such projects to be paid from funds collected pursuant to the marketing order: *Provided*, That with respect to orders applicable to cherries such projects may provide for any form of marketing promotion including paid advertising.

**(7) Terms common to all orders.**

In the case of the agricultural commodities and the products thereof specified in subsection (2) of this section orders shall contain one or more of the following terms and conditions:

(A) Prohibiting unfair methods of competition and unfair trade practices in the handling thereof.

(B) Providing that (except for milk and cream to be sold for consumption in fluid form) such commodity or product thereof, or any grade, size, or quality thereof shall be sold by the handlers thereof only at prices filed by such handlers in the manner provided in such order.

(C) Providing for the selection by the Secretary of Agriculture, or a method for the selection, of an agency or agencies and defining their powers and duties, which shall include only the powers:

(i) To administer such order in accordance with its terms and provisions;

(ii) To make rules and regulations to effectuate the terms and provisions of such order;

(iii) To receive, investigate, and report to the Secretary of Agriculture complaints of violations of such order; and

(iv) To recommend to the Secretary of Agriculture amendments to such order.

No person acting as a member of an agency established pursuant to this paragraph shall be deemed to be acting in an official capacity, within the meaning of section 610(g) of this title, unless such person receives compensation for his personal services from funds of the United States. There shall be included in the membership of any agency selected to administer a marketing order applicable to grapefruit for canning or freezing one or more representatives of processors of the commodity specified in such order.

(D) Incidental to, and not inconsistent with, the terms and conditions specified in subsections (5)–(7) of this section and necessary to effectuate the other provisions of such order.

**(8) Orders with marketing agreement.**

Except as provided in subsection (9) of this section, no order issued pursuant to this section shall become effective until the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of not less than 50 per centum of the volume of the commodity or product thereof covered by such order which is produced or marketed within the production or marketing area defined in such order have signed a marketing agreement, entered into pursuant to section 608b of this title, which regulates the handling of such commodity or product in the same manner as such order, except that as to citrus fruits produced in any area producing what is known as California citrus fruits no order issued pursuant to this subsection shall become effective until the handlers of not less than

80 per centum of the volume of such commodity or product thereof covered by such order have signed such a marketing agreement: *Provided*, That no order issued pursuant to this subsection shall be effective unless the Secretary of Agriculture determines that the issuance of such order is approved or favored:

(A) By at least two-thirds of the producers who (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers), during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

(B) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order.

### **(9) Orders with or without marketing agreement.**

Any order issued pursuant to this section shall become effective in the event that, notwithstanding the refusal or failure of handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum) covered by such order which is produced or marketed within the production or marketing area defined in such order to sign a marketing agreement relating to such commodity or product thereof, on which a hearing has been held, the Secretary of Agriculture determines;

(A) That the refusal or failure to sign a marketing agreement (upon which a hearing has been held) by the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum) specified therein which is produced or marketed within the production or marketing area specified therein tends to prevent the effectuation of the declared policy of sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623 and 624 of this title with respect to such commodity or product, and

(B) That the issuance of such order is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy, and is approved or favored:

(i) By at least two-thirds of the producers (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers) who, during a representative period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

(ii) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order.

#### **(10) Manner of regulation and applicability.**

No order shall be issued under this section unless it regulates the handling of the commodity or product covered thereby in the same manner as, and is made applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held. No order shall be issued under sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623, and 624 of this title prohibiting, regulating, or restricting the advertising of any commodity or product covered thereby, nor shall any marketing agreement contain any provision prohibiting, regulating, or restricting the advertising of any commodity or product covered by such marketing agreement.

#### **(11) Regional application.**

(A) No order shall be issued under this section which is applicable to all production areas or marketing areas, or both, of any commodity or product thereof unless the Secretary finds that the issuance of several orders applicable to the respective regional production areas or regional marketing areas, or both, as the case may be, of the commodity or product would not effectively carry out the declared policy of sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623, and 624 of this title.

(B) Except in the case of milk and its products, orders issued under this section shall be limited in their application to the smallest regional production areas or regional marketing areas, or both, as the case may be, which the Secretary finds practicable, consistently with carrying out such declared policy.

(C) All orders issued under this section which are applicable to the same commodity or product thereof shall, so far as practicable, prescribe such different terms, applicable to different production areas and



marketing areas, as the Secretary finds necessary to give due recognition to the differences in production and marketing of such commodity or product in such areas.

**(12) Approval of cooperative association as approval of producers.**

Whenever, pursuant to the provisions of this section, the Secretary is required to determine the approval or disapproval of producers with respect to the issuance of any order, or any term or condition thereof, or the termination thereof, the Secretary shall consider the approval or disapproval by any cooperative association of producers, bona fide engaged in marketing the commodity or product thereof covered by such order, or in rendering services for or advancing the interests of the producers of such commodity, as the approval or disapproval of the producers who are members of, stockholders in, or under contract with such cooperative association of producers.

**(13) Retailer and producer exemption.**

(A) No order issued under subsection (9) of this section shall be applicable to any person who sells agricultural commodities or products thereof at retail in his capacity as such retailer, except to a retailer in his capacity as a retailer of milk and its products.

(B) No order issued under sections 601–604, 607, 608, 608a, 608b, 608c, 608d, 608e–1, 608f–612, 613, 614–619, 620, 623, and 624 of this title shall be applicable to any producer in his capacity as a producer.

**(14) Violation of order; penalty.**

Any handler subject to an order issued under this section, or any officer, director, agent, or employee of such handler, who violates any provision of such order (other than a provision calling for payment of a pro rata share of expenses) shall, on conviction, be fined not less than \$50 or more than \$500 for each such violation, and each day during which such violation continues shall be deemed a separate violation: *Provided*, That if the court finds that a petition pursuant to subsection (15) of this section was filed and prosecuted by the defendant in good faith and not for delay, no penalty shall be imposed under this subsection for such violations as occurred between the date upon which the defendant's petition was filed with the Secretary, and the date upon which notice of the Secretary's ruling thereon was given to the defendant in accordance with regulations prescribed pursuant to subsection (15) of this section.

**(15) Petition by handler for modification of order or exemption; court review of ruling of Secretary.**

(A) Any handler subject to an order may file a written petition with the Secretary of Agriculture, stating that any such order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Secretary of Agriculture, with the approval of the President. After such hearing, the Secretary shall make a

ruling upon the prayer of such petition which shall be final, if in accordance with law.

(B) The District Courts of the United States in any district in which such handler is an inhabitant, or has his principal place of business, are vested with jurisdiction in equity to review such ruling, provided a bill in equity for that purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering to him a copy of the bill of complaint. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subsection shall not impede, hinder, or delay the United States or the Secretary of Agriculture from obtaining relief pursuant to section 608a(6) of this title. Any proceedings brought pursuant to section 608a(6) of this title (except where brought by way of counterclaim in proceedings instituted pursuant to this subsection (15)) shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this subsection (15).

#### **(16) Termination of orders and marketing agreements.**

(A) The Secretary of Agriculture shall, whenever he finds that any order issued under this section, or any provision thereof, obstructs or does not tend to effectuate the declared policy of sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623, and 624 of this title, terminate or suspend the operation of such order or such provision thereof.

(B) The Secretary shall terminate any marketing agreement entered into under section 608b of this title, or order issued under this section, at the end of the then current marketing period for such commodity, specified in such marketing agreement or order, whenever he finds that such termination is favored by a majority of the producers who, during a representative period determined by the Secretary, have been engaged in the production for market of the commodity specified in such marketing agreement or order, within the production area specified in such marketing agreement or order, or who, during such representative period, have been engaged in the production of such commodity for sale within the marketing area specified in such marketing agreement or order: *Provided*, That such majority have during such representative period produced for market more than 50 per centum of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or have, during such representative period, produced more than 50 per centum of the volume of such commodity sold in the marketing area specified in such marketing agreement or order, but such termination shall be effective only if announced on or before such date (prior to the end of the then current marketing period) as may be specified in such marketing agreement or order.

(C) The termination or suspension of any order or amendment thereto or provision thereof, shall not be considered an order within the meaning of this section.

**(17) Provisions applicable to amendments.**

The provisions of this section and section 608d of this title applicable to orders shall be applicable to amendments to orders: *Provided*, That notice of a hearing upon a proposed amendment to any order issued pursuant to this section, given not less than three days prior to the date fixed for such hearing, shall be deemed due notice thereof.

**(18) Milk prices.**

The Secretary of Agriculture, prior to prescribing any term in any marketing agreement or order, or amendment thereto, relating to milk or its products, if such term is to fix minimum prices to be paid to producers or associations of producers, or prior to modifying the price fixed in any such term, shall ascertain the parity prices of such commodities. The prices which it is declared to be the policy of Congress to establish in section 602 of this title shall, for the purposes of such agreement, order, or amendment, be adjusted to reflect the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk or its products in the marketing area to which the contemplated marketing agreement, order, or amendment relates. Whenever the Secretary finds, upon the basis of the evidence adduced at the hearing required by section 608b of this title or this section, as the case may be, that the parity prices of such commodities are not reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk and its products in the marketing area to which the contemplated agreement, order, or amendment relates, he shall fix such prices as he finds will reflect such factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest. Thereafter, as the Secretary finds necessary on account of changed circumstances, he shall, after due notice and opportunity for hearing, make adjustments in such prices.

**(19) Producer or processor referendum for approving order.**

For the purpose of ascertaining whether the issuance of an order is approved or favored by producers or processors, as required under the applicable provisions of this title, the Secretary may conduct a referendum among producers or processors and in the case of an order other than an amendatory order shall do so. The requirements of approval or favor under any such provision shall be held to be complied with if, of the total number of producers or processors, or the total volume of production, as the case may be, represented in such referendum, the percentage approving or favoring is equal to or in excess of the percentage required under such provision. The terms and conditions of the proposed order shall be described by the Secretary in the ballot used in the conduct of the referendum. The nature, content, or extent of such description shall not be a basis for attacking the legality of the order or any action relating thereto.

Nothing in this subsection shall be construed as limiting representation by cooperative associations as provided in subsection (12) of this section. (May 12, 1933, ch. 25, title I, § 8c, as added Aug. 24, 1935, ch. 641, § 5, 49 Stat. 753, and amended June 25, 1936, ch. 804, 49 Stat. 1921; June 3, 1937, ch. 296, §§ 1, 2(d), (e), (f), (k), (l), (m), 50 Stat. 246, 247; Aug. 5, 1937, ch. 567, 50 Stat. 563; Apr. 13, 1938, ch. 143, §§ 1, 2, 52 Stat. 215; May 31, 1939, ch. 157, 53 Stat. 793; Feb. 10, 1942, ch. 52, §§ 2, 3, 56 Stat. 85; Aug. 1, 1947, ch. 425, §§ 2, 4, 61 Stat. 707, 710; 1947 Reorg. Plan No. 1, § 102, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 951; July 3, 1948, ch. 827, title III, § 302(b, c), 62 Stat. 1258; June 29, 1949, ch. 273, 63 Stat. 282; Aug. 28, 1954, ch. 1041, title IV, § 401(b)-(d), 68 Stat. 907; as amended Aug. 8, 1961, Pub. L. 87-128, title I, § 141 (3, 4), 75 Stat. 304, 305; as amended Sept. 27, 1962, Pub. L. 87-703, title IV, § 403, 76 Stat. 632.)

#### REFERENCES IN TEXT

The Naval Stores Act, referred to in the text of subsec. (2), is classified to chapter 4 of this title.

The Standard Containers Act of 1916 and the Standard Containers Act of 1928, referred to in the text of subsec. (6) (H) are classified to sections 251-256 and 257-257i, respectively, of Title 15, Commerce and Trade.

#### CODIFICATION

The words "(including the district court of the United States for the District of Columbia)" in subsec. (15) (B) following "The District Courts of the United States" have been deleted as superfluous in view of section 132(a) of Title 28, Judiciary and Judicial Procedure which states that "There should be in each judicial district a district court which shall be a court of record known as the United States District Court for the district", and section 88 of said Title 28 which states that "The District of Columbia constitutes one judicial district."

#### AMENDMENTS

1961—Subsec. (2). Pub. L. 87-128, § 141(3), designated existing provisions as par. (A) included in the exception provision thereof cherries, apples, and cranberries, substituted therein "Idaho, New York, Michigan, Maryland, New Jersey, Indiana, California, Maine, Vermont, New Hampshire, Rhode Island, Massachusetts, and Connecticut, and not including fruits for canning or freezing other than olives, grapefruit, cherries, cranberries, and apples produced in the States named above except Washington, Oregon, and Idaho)" for "and Idaho, and not including fruits, other than olives and grapefruit, for canning or freezing)", deleted "soybeans" preceding ", hops, honeybees", and added par. (B) and the provisions respecting the effectiveness of orders as to cherries, apples and cranberries for canning or freezing, the applicability of orders to peanuts, the treatment of commodities as single commodities and separate agricultural commodities, and the deeming of the covered agricultural commodities and products as specified in the subsection.

Subsec. (19). Pub. L. 87-128, § 141(4), provided for processor referendum for approving order, required referendum in case of an order other than an amendatory order, and a description of the terms and conditions of the proposed order in the ballot used in the conduct of the referendum, and prohibited the use of such description as a basis for attacking legality of orders or any action relating thereto.

1954—Subsec. (2) amended by act Aug. 28, 1954, § 401(b), to make grapefruit for canning and freezing (but not the canned or frozen product) subject to its provisions, and to add proviso.

Subsec. (6) amended by act Aug. 28, 1954, § 401(c), to bring within its scope all agricultural commodities specified in subsec. (2) of this section, and to add pars. (H) and (I).

Subsec. (7) (C) amended by act Aug. 28, 1954, § 401(d), to provide for the appointment of representations from the grapefruit for canning processors.

1949—Subsecs. (2) and (6) amended by act June 29, 1949, to make section applicable to filberts and almonds.

1948—Subsec. (17) amended by act July 3, 1948, § 302(c), to strike out “section 608e of this title” which has been repealed.

Subsec. (18) amended by act July 3, 1948, § 302(b), to make the definition of “parity” conform to the definition stated in section 1301(a) (1) of this title.

1947—Subsec. (2) amended by act Aug. 1, 1947, which inserted “or freezing” after “canning” in two places.

Subsec. (6) amended by act Aug. 1, 1947, which, in opening par., inserted “or freezing” after “canning” in two places, reenacted pars. (A)–(E) without change, inserted par. (F), redesignated former par. (F) as “(G)” and reenacted such par. without further change.

1942—Subsec. (6), opening par., amended by act Feb. 10, 1942, § 2, which inserted “and their products” immediately after “hops”.

Subsec. (6) (F) added by act Feb. 10, 1942, § 3.

1939—Act May 31, 1939, amended Act June 3, 1937, § 2, by adding subsection (m) thereto, which in turn amended paragraphs 2 and 6 of this section.

1938—Subsec. (2) amended by act Apr. 13, 1938, § 1, to insert “hops” after “soybeans”.

Subsec. (6) amended by act Apr. 13, 1938, § 2, to insert “hops” after “soybeans and their products”.

1937—Subsec. (2) amended by act Aug. 5, 1937, by adding thereto subsec. (k), which in turn amended subsec. (2) by inserting after “except the products of naval stores” the words “and the products of honeybees” and after “soybeans” the word “, honeybees”.

Subsec. (5) (B) (d) amended by act June 3, 1937, § 2(d), by striking out “production” and inserting in lieu thereof “marketings”.

Subsec. (6) amended by act Aug. 5, 1937, by adding subsec. (l), which in turn amended subsec. (6) by inserting after “soybeans and their products,” the word “honeybees”.

Subsec. (6) (B) amended by act June 3, 1937, § 2(e), by striking out “produced or” and “production or sales of” and inserting in lieu thereof “quantities available for sale by”.

Subsecs. (18) and (19) added by act June 3, 1937, § 2(f). See note set out under section 601 of this title.

1936—Act June 25, 1936, provided that the Supreme Court of the District of Columbia should thereafter be known as the “district court of the United States for the District of Columbia.”

1935—Section added to the Agricultural Adjustment Act by act Aug. 24, 1935, which also struck out former section 608(3) of this title.

#### EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective as of Jan. 1, 1950, see note set out under section 1301 of this title.

#### VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section, except for the amendments to subsections (5) (B) (d) and (6) (B) by section 2 of the act, and the addition of subsections (18) and (19) by said section 2. See note to section 601 of this title.

#### PRESIDENTIAL APPROVAL ABOLISHED

Phrase “, with the approval of the President,” following “Secretary of Agriculture” in opening par. of subsec. (9) of this section was omitted on the authority of 1947 Reorg. Plan No. 1, set out in note to section 133y–16 of Title 5, Executive Departments and Government Officers and Employees which abolished the function of the President with respect to approving determinations of the Secretary of Agriculture in connection with agricultural marketing orders under this section.

**§ 608d. Books and records; disclosure of information.**

(1) All parties to any marketing agreement, and all handlers subject to an order, shall severally, from time to time, upon the request of the Secretary, furnish him with such information as he finds to be necessary to enable him to ascertain and determine the extent to which such agreement or order has been carried out or has effectuated the declared policy of sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623 and 624 of this title, and with such information as he finds to be necessary to determine whether or not there has been any abuse of the privilege of exemptions from the antitrust laws. Such information shall be furnished in accordance with forms of reports to be prescribed by the Secretary. For the purpose of ascertaining the correctness of any report made to the Secretary pursuant to this subsection, or for the purpose of obtaining the information required in any such report, where it has been requested and has not been furnished, the Secretary is authorized to examine such books, papers, records, copies of income-tax reports, accounts, correspondence, contracts, documents, or memoranda, as he deems relevant and which are within the control (1) of any such party to such marketing agreement, or any such handler, from whom such report was requested or (2) of any person having, either directly or indirectly, actual or legal control of or over such party or such handler or (3) of any subsidiary of any such party, handler, or person.

(2) Notwithstanding the provisions of section 607 of this title, all information furnished to or acquired by the Secretary of Agriculture pursuant to this section shall be kept confidential by all officers and employees of the Department of Agriculture and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary of Agriculture, or to which he or any officer of the United States is a party, and involving the marketing agreement or order with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (A) the issuance of general statements based upon the reports of a number of parties to a marketing agreement or of handlers subject to an order, which statements do not identify the information furnished by any person, or (B) the publication by direction of the Secretary, of the name of any person violating any marketing agreement or any order, together with a statement of the particular provisions of the marketing agreement or order violated by such person. Any such officer or employee violating the provisions of this section shall upon conviction be subject to a fine of not more than \$1,000 or to imprisonment for not more than one year, or to both, and shall be removed from office. (May 12, 1933, ch. 25, title I, § 8d, as added Aug. 24, 1935, ch. 641, § 6, 49 Stat. 761, and amended June 3, 1937, ch. 296, § 1, 50 Stat. 246.)

**CODIFICATION**

Act Aug. 24, 1935, struck out provisions of section 8(4) of act May 12, 1933, formerly appearing in section 608(4) of this title and added a new section 8d containing provisions now appearing in text.

## VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section. See note to section 601 of this title.

**§ 608e. Repealed. July 3, 1948, ch. 827, title III, § 302(d), 62 Stat. 1258.**

Section, acts May 12, 1933, ch. 25, title I, § 8e, as added Aug. 24, 1935, ch. 641, § 6, 48 Stat. 762, and amended June 3, 1937, ch. 296, § 1, 50 Stat. 246, related to determination of base period.

## EFFECTIVE DATE OF REPEAL

Repeal effective as of Jan. 1, 1950, see note set out under section 1301 of this title.

**§ 608e-1. Import prohibitions on tomatoes, avocados, limes, etc., rules and regulations.**

Notwithstanding any other provision of law, whenever a marketing order issued by the Secretary of Agriculture pursuant to section 608c of this title contains any terms or conditions regulating the grade, size, quality, or maturity of tomatoes, avocados, mangoes, limes, grapefruit, green peppers, Irish potatoes, cucumbers, oranges, onions, walnuts, dates, or eggplants produced in the United States the importation into the United States of any such commodity, other than dates for processing, during the period of time such order is in effect shall be prohibited unless it complies with the grade, size, quality, and maturity provisions of such order or comparable restrictions promulgated hereunder: *Provided*, That this prohibition shall not apply to such commodities when shipped into continental United States from the Commonwealth of Puerto Rico or any Territory or possession of the United States where sections 601-604, 607-608a, 608b, 608c, 608d, 608e-1 to 612, 613, 614-619, 620, 623, and 624 of this title have force and effect: *Provided further*, That whenever two or more such marketing orders regulating the same agricultural commodity produced in different areas of the United States are concurrently in effect, the importation into the United States of any such commodity, other than dates for processing, shall be prohibited unless it complies with the grade, size, quality, and maturity provisions of the order which, as determined by the Secretary of Agriculture, regulates the commodity produced in the area with which the imported commodity is in most direct competition. Such prohibition shall not become effective until after the giving of such notice as the Secretary of Agriculture determines reasonable, which shall not be less than three days. In determining the amount of notice that is reasonable in the case of tomatoes the Secretary of Agriculture shall give due consideration to the time required for their transportation and entry into the United States after picking. Whenever the Secretary of Agriculture finds that the application of the restrictions under a marketing order to an imported commodity is not practicable because of variations in characteristics between the domestic and imported commodity he shall establish with respect to the imported commodity, other than dates for processing, such grade, size, quality, and maturity restrictions by varieties, types, or other classifications as he finds

will be equivalent or comparable to those imposed upon the domestic commodity under such order. The Secretary of Agriculture may promulgate such rules and regulations as he deems necessary, to carry out the provisions of this section. Any person who violates any provision if<sup>1</sup> this section or of any rule, regulation, or order promulgated hereunder shall be subject to a forfeiture in the amount prescribed in section 608a(5) of this title or, upon conviction, a penalty in the amount prescribed in section 608c(14) of this title, or to both such forfeiture and penalty. (May 12, 1933, ch. 25, title I, § 8e, as added Aug 28, 1954, ch. 1041, title IV, § 401(c), 68 Stat. 907, and amended Aug 31, 1954, ch. 1172, § 3(a), 68 Stat. 1047; as amended Aug. 8, 1961, Pub. L. 87-128, title I, § 141(5), 75 Stat. 305.)

#### AMENDMENTS

1961—Public Law 87-128 extended the importation prohibition to oranges, onions, walnuts and dates, other than dates for processing.

1954—Act Aug. 31, 1954, amended section to make it applicable to mangoes.

#### EFFECTIVE DATE OF 1954 AMENDMENT

Section 3(b) of act Aug. 31, 1954, provided that the amendment of this section should become effective Aug. 31, 1954.

### § 610. Administration. (a) Appointment of officers and employees; impounding appropriations.

The Secretary of Agriculture may appoint such officers and employees, subject to the provisions of the Classification Act of 1949, and such experts, as are necessary to execute the functions vested in him by sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623, and 624 of this title: *Provided*, That the Secretary shall establish the Agricultural Adjustment Administration in the Department of Agriculture for the administration of the functions vested in him by said sections: *And provided further*, That the State Administrator appointed to administer said sections in each State shall be appointed by the President, by and with the advice and consent of the Senate. Section 8 of Title II of the Act entitled "An Act to maintain the credit of the United States Government," approved March 20, 1933, to the extent that it provides for the impoundment of appropriations on account of reductions in compensation, shall not operate to require such impoundment under appropriations contained in sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623, and 624 of this title.

### (b) State and local committees or associations of producers; handler's share of expenses of authority or agency.

(1) The Secretary of Agriculture is authorized to establish, for the more effective administration of the functions vested in him by sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623, and 624 of this title, State and local committees,

<sup>1</sup> So in original. Probably should be "of".



or associations of producers, and to permit cooperative associations of producers, when in his judgment they are qualified to do so, to act as agents of their members and patrons in connection with the distribution of payments authorized to be made under section 608 of this title. The Secretary, in the administration of said sections, shall accord such recognition and encourage to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing Acts of Congress, and as will tend to promote efficient methods of marketing and distribution.

(2) (i) Each order relating to milk and its products issued by the Secretary under sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623, and 624 of this title shall provide that each handler subject thereto shall pay to any authority or agency established under such order such handler's pro rata share (as approved by the Secretary) of such expenses as the Secretary may find will necessarily be incurred by such authority or agency, during any period specified by him, for the maintenance and functioning of such authority or agency, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of milk or products thereof received, handled, held, or disposed of by such authority or agency for the benefit or account of persons other than handlers subject to such order. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of milk or product thereof covered by such order which is distributed, processed, or shipped by such cooperative association of producers.

(ii) Each order relating to any other commodity or product issued by the Secretary under sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623, and 624 of this title shall provide that each handler subject thereto shall pay to any authority or agency established under such order such handler's pro rata share (as approved by the Secretary) of such expenses as the Secretary may find are reasonable and are likely to be incurred by such authority or agency, during any period specified by him, for such purposes as the Secretary may, pursuant to such order, determine to be appropriate, and for the maintenance and functioning of such authority or agency, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of a commodity received, handled, held, or disposed of by such authority or agency for the benefit or account of persons other than handlers subject to such order. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of the agricultural commodity or product thereof covered by such order which is distributed, processed, or shipped by such cooperative association of producers. The payment of assessments for the maintenance and functioning of such authority or agency, as provided for herein, may be required under a marketing agreement or marketing order throughout the period the marketing agreement or order is in effect and irrespective of whether particular provisions thereof are suspended or become inoperative.

(iii) Any authority or agency established under an order may maintain in its own name, or in the name of its members, a suit against any handler subject to an order for the collection of such handler's pro rata share of expenses. The several district courts of the United States are vested with jurisdiction to entertain such suits regardless of the amount in controversy.

**(c) Regulations; penalty for violation.**

The Secretary of Agriculture is authorized, with the approval of the President, to make such regulations with the force and effect of law as may be necessary to carry out the powers vested in him by sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623, and 624 of this title. Any violation of any regulation shall be subject to such penalty, not in excess of \$100, as may be provided therein.

**(f) Geographical application.**

The provisions of sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623, and 624 of this title shall be applicable to the United States and its possessions, except the Virgin Islands, American Samoa, the Canal Zone, and the island of Guam: except that, in the case of sugar beets and sugarcane, the President, if he finds it necessary in order to effectuate the declared policy of said sections, is authorized by proclamation to make the provisions of said sections applicable to the Virgin Islands, American Samoa, the Canal Zone, and/or the island of Guam.

**(g) Officers; dealing or speculating in agricultural products; penalties.**

No person shall, while acting in any official capacity in the administration of sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623, and 624 of this title, speculate, directly or indirectly, in any agricultural commodity or product thereof, to which said sections apply, or in contracts relating thereto, or in the stock or membership interest of any association or corporation engaged in handling, processing, or disposing of any such commodity or product. Any person violating this subsection shall upon conviction thereof be fined not more than \$10,000 or imprisoned not more than two years, or both.

**(h) Adoption of Federal Trade Commission Act; hearings; report of violations to Attorney General.**

For the efficient administration of the provisions of sections 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623, and 624 of this title, the provisions, including penalties, of sections 48, 49, and 50 of Title 15, are made applicable to the jurisdiction, powers, and duties of the Secretary in administering the provisions of said sections, and to any person subject to the provisions of said sections, whether or not a corporation. Hearings authorized or required under said sections shall be conducted by the Secretary of Agriculture or

such officer or employee of the Department as he may designate for the purpose. The Secretary may report any violation of any agreement entered into under said sections, to the Attorney General of the United States, who shall cause appropriate proceedings to enforce such agreement to be commenced and prosecuted in the proper courts of the United States without delay.

**(i) Cooperation with State authorities; imparting information.**

The Secretary of Agriculture upon the request of the duly constituted authorities of any State is directed, in order to effectuate the declared policy of sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623, and 624 of this title and in order to obtain uniformity in the formulation, administration, and enforcement of Federal and State programs relating to the regulation of the handling of agricultural commodities or products thereof, to confer with and hold joint hearings with the duly constituted authorities of any State, and is authorized to cooperate with such authorities; to accept and utilize, with the consent of the State, such State and local officers and employees as may be necessary; to avail himself of the records and facilities of such authorities; to issue orders (subject to the provisions of section 608c of this title) complementary to orders or other regulations issued by such authorities; and to make available to such State authorities the records and facilities of the Department of Agriculture: *Provided*, That information furnished to the Secretary of Agriculture pursuant to section 608d(1) of this title shall be made available only to the extent that such information is relevant to transactions within the regulatory jurisdiction of such authorities, and then only upon a written agreement by such authorities that the information so furnished shall be kept confidential by them in a manner similar to that required of Federal officers and employees under the provisions of section 608d(2) of this title.

**(j) Definitions.**

The term "interstate or foreign commerce" means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession, or the District of Columbia. For the purpose of sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623, and 624 of this title (but in nowise limiting the foregoing definition) a marketing transaction in respect to an agricultural commodity or the product hereof shall be considered in interstate or foreign commerce if such commodity or product is part of that current of interstate or foreign commerce usual in the handling of the commodity or product whereby they, or either of them, are sent from one State to end their transit, after purchase, in another, including all cases where purchase or sale is either for shipment to another State or for the processing within the State and the shipment outside the

State of the products so processed. Agricultural commodities or products thereof normally in such current of interstate or foreign commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of said sections. As used herein, the word "State" includes Territory, the District of Columbia, possession of the United States, and foreign nations. (May 12, 1933, ch. 25, title I, § 10, 48 Stat. 37; June 16, 1933, ch. 98, title VIII, § 86, 48 Stat. 273; May 9, 1934, 11:23 a.m., ch. 263, § 7, 48 Stat. 675; Aug. 24, 1935, ch. 641, §§ 16-18, 49 Stat. 767; Aug. 26, 1935, ch. 685, 49 Stat. 801; June 22, 1936, 9:00 p.m., ch. 690, § 601(a), 49 Stat. 1739; June 3, 1937, ch. 296, §§ 1, 2 (g-i), 50 Stat. 246, 248; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7817, 60 Stat. 1352; Aug. 1, 1947, ch. 425, § 3, 61 Stat. 709; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972.)

#### REFERENCES IN TEXT

The Classification Act of 1949, referred to in text of subsection (a), is classified to chapter 21 of Title 5, Executive Departments and Government Officers and Employees.

Section 8 of title II of the Act entitled "An Act to maintain the credit of the United States Government," referred to in the text of subsec. (a), means act Mar. 20, 1933, ch. 3, title II, § 8, 48 Stat. 15, and is not classified to the code.

#### CODIFICATION

Provisions of subsec. (a), which authorized appointment of officers and employees without regard to the civil-service laws and regulations and which limited the maximum salary payable to any officer or employee to not more than \$10,000 per annum, were omitted as obsolete and superseded.

The authority for covering excepted positions into the classified civil service was given the President by section 631a of Title 5, Executive Departments and Government Officers and Employees. By Executive Order 8743, Apr. 25, 1941, set out as a note under section 631a of Title 5, the President exercised this authority with respect to many previously excepted positions.

For positions now covered by the Classification Act of 1949, see sections 1081 and 1082 of Title 5. For the power of the Civil Service Commission to determine the applicability of those sections to specific positions, see section 1083 of Title 5.

References to the Philippine Islands in subsec. (f) of this section were omitted as obsolete in view of the independence of the Philippine Islands, proclaimed by the President of the United States in Proc. No. 2695, which is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse.

#### AMENDMENTS

1949—Subsec. (a) amended by act Oct. 28, 1949, which substituted the "Classification Act of 1949" for the "Classification Act of 1923".

1947—Subsec. (b) (2), formerly comprising one paragraph, amended by act Aug. 1, 1947, which, among other changes, inserted subpar. (i), designated former single par. of subsection as subpar. (ii) and added present final sentence thereto, and designated former third and fourth sentences of subsec. as subpar. (iii).

1937—Subsec. (c) amended by striking out last clause of first sentence by act June 3, 1937, § 2(g).

Subsec. (f) amended by act June 3, 1937, § 2(b), by striking out the last sentence.

Subsec. (j) added by act June 3, 1937, § 2(i).

1936—Subsec. (d) reenacted for refund purposes by act June 22, 1936. See section 641(a) of this title.

1935—Subsec. (b) amended by act Aug. 24, 1935, § 16, which, among other changes, added "The Secretary, \* \* \* amount in controversy" at the end of the first sentence.

Subsec. (e) amended by act Aug. 24, 1935, § 17, by striking out "rental or benefit payment" and inserting in lieu thereof "payment authorized to be made under section 8."

Subsec. (i) added by act Aug. 24, 1935, § 18.

1934—Subsec. (f) amended by act Aug. 26, 1935, which added the last sentence.

1933—Subsec. (a) amended by act June 16, 1933, which added "*And provided further, \* \* \** and consent of the Senate" after the end of the first sentence.

#### VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, § 1, affirmed, validated, and reenacted without change the provisions of subsecs. (a), (b) (2), (c), and (f)–(i) of this section, except for the amendments to subsecs. (c) and (f) by section 2 of the act. See note to section 601 of this title.

#### APPROPRIATIONS FOR REFUNDS AND PAYMENTS OF PROCESSING AND RELATED TAXES AND LIMITATIONS THEREON

Acts June 25, 1938, ch. 681, 52 Stat. 1150; May 6, 1939, ch. 115, § 1, 53 Stat. 661, 662; Feb. 12, 1940, ch. 28, § 1, 54 Stat. 36; Mar. 25, 1940, ch. 71, title I, 54 Stat. 61; May 31, 1941, ch. 156, title I, § 1, 55 Stat. 218; Mar. 10, 1942, ch. 178, title I, § 1, 56 Stat. 156; June 30, 1943, ch. 179, title I, 57 Stat. 257; Apr. 22, 1944, ch. 175, title I, § 1, 58 Stat. 201; Apr. 24, 1945, ch. 92, title I, 59 Stat. 62; July 20, 1946, ch. 588, title I, 60 Stat. 574.

#### EX. ORD. NO. 10199. REGULATIONS WITHOUT APPROVAL OF PRESIDENT

Ex. Ord. No. 10199, Dec. 22, 1950, 15 F.R. 9217, provided:

By virtue of the authority vested in me by the act of August 8, 1950, Public Law 673, 81st Congress [sections 301–303 of Title 3] I hereby authorize the Secretary of Agriculture to make without the approval of the President such regulations with the force and effect of law as may be necessary to carry out the powers vested in him by the Agricultural Marketing Agreement Act of 1937, as amended [this chapter].

#### § 612. Appropriation; use of revenues; administrative expenses.

(a) There is appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$100,000,000 to be available to the Secretary of Agriculture for administrative expenses under sections 601–604, 607, 608, 608a, 608b, 608c, 608d, 608e–1, 608f–612, 613, 614–619, 620, 623, and 624 of this title and for payments authorized to be made under section 608 of this title. Such sum shall remain available until expended. To enable the Secretary of Agriculture to finance under such terms and conditions as he may prescribe, surplus reductions with respect to the dairy- and beef-cattle industries, and to carry out any of the purposes described in subsections (a) and (b) of this section and to support and balance the markets for the dairy and beef cattle industries, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$200,000,000: *Provided*, That not more than 60 per centum of such amount shall be used for either of such industries.

(c) The administrative expenses provided for under this section shall include, among others, expenditures for personal services and rent in the District of Columbia and elsewhere, for law books and books of reference, for contract stenographic reporting services, and for printing and paper in addition to allotments under the existing law. The Secretary of Agriculture shall transfer to the Treasury Department, and is authorized to transfer to other agencies, out of

funds available for administrative expenses under sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623, and 624 of this title, such sums as are required to pay administrative expenses incurred and refunds made by such department or agencies in the administration of said sections. (May 12, 1933, ch. 25, title I, § 12, 48 Stat. 38; Apr. 7, 1934, ch. 103, § 2, 48 Stat. 528; Aug. 24, 1935, ch. 641, §§ 3, 19, 49 Stat. 753, 768; June 3, 1937, ch. 296, §§ 1, 2(j), 50 Stat. 246, 248.)

#### VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, § 1, affirmed and validated, and reenacted without change the provisions of subsecs (a) and (c) of this section, except for the amendment to subsec. (a) by section 2 of the act. See note to section 601 of this title.

#### SETTLEMENT OF CERTAIN CLAIMS AND ACCOUNTS

Act June 5, 1942, ch. 349, §§ 2, 3, 56 Stat. 324; authorized Comptroller General to relieve disbursing and certifying officers from liability for payments made prior to January 6, 1936, under Agricultural Adjustment Act of 1933 or amendments thereto [sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623 and 624 of this title], or under the appropriation "Payments for Agricultural Adjustment" in act Feb. 11, 1936, ch. 49, 49 Stat. 1116, upon certificate of Secretary of Agriculture that such payments were made in good faith, and also provided that no action should be taken to recover such excess payments, if the Secretary of Agriculture should further certify that in view of the good faith of the parties or other circumstances of the case, such attempt to recover them would be inadvisable or inequitable.

#### § 614. Separability of provisions.

If any provision of sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623, and 624 of this title is declared unconstitutional, or the applicability thereof to any person, circumstance, or commodity is held invalid the validity of the remainder of said sections and the applicability thereof to other persons, circumstances, or commodities shall not be affected thereby. (May 12, 1933, ch. 25, title I, § 14, 48 Stat. 39; June 3, 1937, ch. 296, § 1, 50 Stat. 246.)

#### VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, § 1, affirmed and validated, and reenacted without change the provisions of this section. See note to section 601 of this title.

#### § 624. Limitation on imports; authority of President.

(a) Whenever the Secretary of Agriculture has reason to believe that any article or articles are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, any program or operation undertaken under sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623, and 624 of this title or the Soil Conservation and Domestic Allotment Act, as amended, or section 612c of this title, or any loan, purchase, or other program or operation undertaken by the Department of Agriculture, or any agency operating under its direction, with respect to any agricultural commodity or product thereof, or to reduce substantially the amount of any product processed in the

United States from any agricultural commodity or product thereof with respect to which any such program or operation is being undertaken, he shall so advise the President, and, if the President agrees that there is reason for such belief, the President shall cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this section to determine such facts. Such investigation shall be made after due notice and opportunity for hearing to interested parties, and shall be conducted subject to such regulations as the President shall specify.

(b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by proclamation impose such fees not in excess of 50 per centum ad valorem or such quantitative limitations on any article or articles which may be entered, or withdrawn from warehouse, for consumption as he finds and declares shown by such investigation to be necessary in order that the entry of such article or articles will not render or tend to render ineffective, or materially interfere with, any program or operation referred to in subsection (a) of this section, or reduce substantially the amount of any product processed in the United States from any such agricultural commodity or product thereof with respect to which any such program or operation is being undertaken: *Provided*, That no proclamation under this section shall impose any limitation on the total quantity of any article or articles which may be entered, or withdrawn from warehouse, for consumption which reduces such permissible total quantity to proportionately less than 50 per centum of the total quantity of such article or articles which was entered, or withdrawn from warehouse, for consumption during a representative period as determined by the President; *And provided further*, That in designating any article or articles, the President may describe them by physical qualities, value, use, or upon such other bases as he shall determine.

In any case where the Secretary of Agriculture determines and reports to the President with regard to any article or articles that a condition exists requiring emergency treatment, the President may take immediate action under this section without awaiting the recommendations of the Tariff Commission, such action to continue in effect pending the report and recommendations of the Tariff Commission and action thereon by the President.

(c) The fees and limitations imposed by the President by proclamation under this section and any revocation, suspension, or modification thereof, shall become effective on such date as shall be therein specified, and such fees shall be treated for administrative purposes and for the purposes of section 612c of this title, as duties imposed by the Tariff Act of 1930, but such fees shall not be considered as duties for the purpose of granting any preferential concession under any international obligation of the United States.

(d) After investigation, report, finding, and declaration in the manner provided in the case of a proclamation issued pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended or terminated by the President whenever he finds and proclaims that the circumstances requiring the

proclamation or provision thereof no longer exist or may be modified by the President whenever he finds and proclaims that changed circumstances require such modification to carry out the purposes of this section.

(e) Any decision of the President as to facts under this section shall be final.

(f) No trade agreement or other international agreement heretofore or hereafter entered into by the United States shall be applied in a manner inconsistent with the requirements of this section. (May 12, 1933, ch. 25, title I, § 22, as added Aug. 24, 1935, ch. 651, § 31, 49 Stat. 773, and amended Feb. 29, 1936, ch. 104, § 5, 49 Stat. 1152; June 3, 1937, ch. 296, § 1, 50 Stat. 246; Jan. 25, 1940, ch. 13, 54 Stat. 17; July 3, 1948, ch. 827, title I, § 3, 62 Stat. 1248; June 28, 1950, ch. 381, § 3, 64 Stat. 261; June 16, 1951, ch. 141, § 8(b), 65 Stat. 75; Aug. 7, 1953, ch. 348, title I, § 104, 67 Stat. 472.)

#### REFERENCES IN TEXT

The Soil Conservation and Domestic Allotment Act, as amended, referred to in subsection (a), is classified to chapter 3B of Title 16, Conservation.

The Tariff Act of 1930, referred to in subsection (c), is classified to chapter 4 of Title 19, Customs Duties.

#### AMENDMENTS

1953—Subsec. (b) amended by subsec. (c) of section 8 of act June 16, 1951, as added to section 8 by act Aug. 7, 1953, which added second paragraph to subsec. (b).

1951—Subsec. (f) amended generally by act June 16, 1951, to provide that no trade agreement concessions can be construed to interfere with the operation of agricultural programs.

1950—Subsec. (a) amended by act June 28, 1950, to place upon the Secretary of Agriculture the responsibility of notifying the President whenever the Secretary believes or has reason to believe that any article or articles are being or practically certain to be brought into this country so as to render, or tend to render ineffective or materially interfere with programs undertaken under this chapter.

Subsecs. (b)–(e) reenacted without change by act June 28, 1950.

Subsec. (f) amended by act June 28, 1950, to make certain that future international agreements or amendments to existing agreements give effect to this section within the framework of the general agreements on tariffs and trade.

1948—Act July 3, 1948, amended section generally to extend the authority of this section to agriculture products as well as commodities; to extend such authority to cover articles the import of which affects any loan, purchase, or other Departmental operation or program, to make quantitative limitation restrictions applicable to the total quantity of an article imported during a representative period as determined by the President, rather than to each country's average annual quantity of the article imported during the period from Jan. 1, 1929, to Dec. 31, 1933, as formerly provided; to give the President a specific grant of authority to describe designated articles by physical qualities, value, use, or upon such bases as he determines; to clarify the definition respecting authorized fees, which formerly were considered duties for some purposes, so that they no longer shall be considered as duties for the purpose of granting any preferential concession under any international obligation of the United States; and, to prohibit the enforcement of a proclamation under this section which would be in contravention to any treaty or international agreement to which the United States is a part.

1940—Subsecs. (a)–(c) amended generally by act Jan. 25, 1940.

1936—Act Feb. 29, 1936, inserted after “this title” wherever the words appear “the Soil Conservation and Domestic Allotment Act”, and struck out “an adjustment” wherever the words appeared and inserted in lieu thereof “any”.



## EFFECTIVE DATE OF 1948 AMENDMENT

Section 6 of act July 3, 1948, provided that the amendment of this section by section 3 of act July 3, 1948, should be effective as of July 3, 1948.

## VALIDITY OF SECTION AFFIRMED

Act June 3, 1937, affirmed and validated, and reenacted without change the provisions of this section. See note to section 601 of this title.

**§ 671. Arbitration of disputes concerning milk—(a) Application.**

The Secretary of Agriculture, or such officer or employee of the Department of Agriculture as may be designated by him, upon written application of any cooperative association, incorporated or otherwise, which is in good faith owned or controlled by producers or organizations thereof, of milk or its products, and which is bona fide engaged in collective processing or preparing for market or handling or marketing (in the current of interstate or foreign commerce, as defined by section 610(j) of this title), milk or its products, may mediate and, with the consent of all parties, shall arbitrate if the Secretary has reason to believe that the declared policy of sections 601–604, 607, 608, 608a, 608b, 608c, 608d, 608e–1, 608f–612, 613, 614–619, 620, 623, and 624 of this title would be effectuated thereby, bona fide disputes, between such associations and the purchasers or handlers or processors or distributors of milk or its products, as to terms and conditions of the sale of milk or its products. The power to arbitrate under this section shall apply only to such subjects of the term or condition in dispute as could be regulated under the provisions of said sections relating to orders for milk and its products.

**(b) Conduct of meetings.**

Meetings held pursuant to this section shall be conducted subject to such rules and regulations as the Secretary may prescribe.

**(c) Approval of award.**

No award or agreement resulting from any such arbitration or mediation shall be effective unless and until approved by the Secretary of Agriculture, or such officer or employee of the Department of Agriculture as may be designated by him, and shall not be approved if it permits any unlawful trade practice or any unfair method of competition.

**(d) Exemption from antitrust laws.**

No meeting so held and no award or agreement so approved shall be deemed to be in violation of any of the antitrust laws of the United States. (June 3, 1937, ch. 296, § 3, 50 Stat. 248.)

## REFERENCES IN TEXT

The antitrust laws, referred to in the text of subsection (d), are classified to section 1 et seq. of Title 15, Commerce and Trade.

**§ 672. Agreements; licenses, regulations, programs, etc., unaffected.**

(a) Nothing in this Act shall be construed as invalidating any marketing agreement, license, or order, or any regulation relating to, or any provision of, or any act of the Secretary of Agriculture in connection with, any such agreement, license, or order which has been executed, issued, approved, or done under sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623 and 624 of this title, but such marketing agreements, licenses, orders, regulations, provisions, and acts are expressly ratified, legalized, and confirmed.

(b) Any program in effect under sections 601, 602, 608a, 608b, 608c, 608d, 610, 612, 614, and 624 of this title, on January 1, 1950, shall continue in effect without the necessity for any amendatory action relative to such program, but any such program shall be continued in operation by the Secretary of Agriculture only to establish and maintain such orderly marketing conditions as will tend to effectuate the declared purpose set out in section 602 or 608c of this title. (June 3, 1937, ch. 296, § 4, 50 Stat. 249; July 3, 1948, ch. 827, title III, § 302(e), 62 Stat. 1258.)

REFERENCES IN TEXT

This Act, referred to in the text, refers to act June 3, 1937, ch. 296, 50 Stat. 249. Sections 1 and 2 of that act amended sections 601, 602, 608a, 608b, 608c, 608d, 610, 612, 614, and 624 of this title, and sections 3-6 comprised this chapter.

AMENDMENTS

1948—Subsec. (a) amended by act July 3, 1948, which designated former section to be subsec. (a).

Subsec. (b) added by act July 3, 1948.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective as of Jan. 1, 1950, see note set out under section 1301 of this title.

**§ 673. Taxes under Agricultural Adjustment Act; laws unaffected.**

No processing taxes or compensating taxes shall be levied or collected under sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623 and 624 of this title. Except as provided in the preceding sentence, nothing in this Act shall be construed as affecting provisions of said sections other than those enumerated in sections 601, 602, 608a, (5-9), 608b, 608c, 608d, 610 (a), (b) (2), (c), (f), (g-i), 612 (a), (c), 614, and 624 of this title. The provisions so enumerated shall apply in accordance with their terms (as amended by this Act) to the provisions of sections 601-604, 607, 608, 608a, 608b, 608c, 608d, 608e-1, 608f-612, 613, 614-619, 620, 623 and 624 of this title, sections 671-673 of this title, and other provisions of law to which they have been heretofore made applicable. (June 3, 1937, ch. 296, § 5, 50 Stat. 249.)

REFERENCES IN TEXT

This Act, referred to in the text, refers to act June 3, 1937, ch. 296, 50 Stat. 249. Sections 1 and 2 of said act amended sections 601, 602, 608a, 608b, 608c, 608d, 610, 612, 614, and 624 of this title, and sections 3-6 comprised this chapter.

**§ 674. Short title.**

## CODIFICATION

Section, act June 3, 1937, ch. 296, § 6, 50 Stat. 249, provided that such act might be cited as the Agricultural Marketing Agreement Act of 1937. Sections 1 and 2 of that act amended sections 601, 602, 608a, 608b, 608c, 608d, 610, 612, 614, and 624 of this title, and sections 3–6 of that act comprised this chapter.